

109TH CONGRESS
2D SESSION

H. R. 6072

To amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2006

Mr. ROSS (for himself and Mr. OXLEY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Services
5 Regulatory Relief Amendments Act of 2006” .

1 **SEC. 2. AMENDMENTS RELATING TO NONFEDERALLY IN-**
2 **SURED CREDIT UNIONS.**

3 (a) IN GENERAL.—Subsection (a) of section 43 of the
4 Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is
5 amended by adding at the end the following new para-
6 graph:

7 “(3) ENFORCEMENT BY APPROPRIATE STATE
8 SUPERVISOR.—Any appropriate State supervisor of a
9 private deposit insurer, and any appropriate State
10 supervisor of a depository institution which receives
11 deposits that are insured by a private deposit in-
12 surer, may examine and enforce compliance with this
13 subsection under the applicable regulatory authority
14 of such supervisor.”.

15 (b) AMENDMENT RELATING TO DISCLOSURES RE-
16 QUIRED, PERIODIC STATEMENTS AND ACCOUNT
17 RECORDS.—Section 43(b)(1) of the Federal Deposit In-
18 surance Act (12 U.S.C. 1831t(b)(1)) is amended by strik-
19 ing “or similar instrument evidencing a deposit” and in-
20 serting “or share certificate”.

21 (c) AMENDMENTS RELATING TO DISCLOSURES RE-
22 QUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1831t(b)(2)) is amended to read as follows:

25 “(2) ADVERTISING; PREMISES.—

1 “(A) IN GENERAL.—Include clearly and
2 conspicuously in all advertising, except as pro-
3 vided in subparagraph (B); and at each station
4 or window where deposits are normally received,
5 its principal place of business and all its
6 branches where it accepts deposits or opens ac-
7 counts (excluding automated teller machines or
8 point of sale terminals), and on its main Inter-
9 net page, a notice that the institution is not
10 federally insured.

11 “(B) EXCEPTIONS.—The following need
12 not include a notice that the institution is not
13 federally insured:

14 “(i) Statements or reports of financial
15 condition of the depository institution that
16 are required to be published or posted by
17 State or Federal law or regulation.

18 “(ii) Any sign, document, or other
19 item that contains the name of the deposi-
20 tory institution, its logo, or its contact in-
21 formation, but only if the sign, document,
22 or item does not include any information
23 about the institution’s products or services
24 or information otherwise promoting the in-
25 stitution.

1 “(iii) Small utilitarian items that do
2 not mention deposit products or insurance
3 if inclusion of the notice would be imprac-
4 tical.”.

5 (d) AMENDMENTS RELATING TO ACKNOWLEDGMENT
6 OF DISCLOSURE.—Section 43(b)(3) of the Federal De-
7 posit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended
8 to read as follows:

9 “(3) ACKNOWLEDGMENT OF DISCLOSURE.—

10 “(A) NEW DEPOSITORS OBTAINED OTHER
11 THAN THROUGH A CONVERSION OR MERGER.—

12 With respect to any depositor who was not a
13 depositor at the depository institution before
14 the effective date of the Financial Services Reg-
15 ulatory Relief Amendments Act of 2006, and
16 who is not a depositor as described in subpara-
17 graph (B), receive any deposit for the account
18 of such depositor only if the depositor has
19 signed a written acknowledgment that—

20 “(i) the institution is not federally in-
21 sured; and

22 “(ii) if the institution fails, the Fed-
23 eral Government does not guarantee that
24 the depositor will get back the depositor’s
25 money.

1 “(B) NEW DEPOSITORS OBTAINED
2 THROUGH A CONVERSION OR MERGER.—With
3 respect to a depositor at a federally insured de-
4 pository institution that converts to, or merges
5 into, a depository institution lacking Federal in-
6 surance after the effective date of the Financial
7 Services Regulatory Relief Amendments Act of
8 2006, receive any deposit for the account of
9 such depositor only if—

10 “(i) the depositor has signed a written
11 acknowledgment described in subparagraph
12 (A); or

13 “(ii) the institution makes an attempt,
14 as described in subparagraph (D) and sent
15 by mail no later than 45 days after the ef-
16 fective date of the conversion or merger, to
17 obtain the acknowledgment.

18 “(C) CURRENT DEPOSITORS.—Receive any
19 deposit after the effective date of the Financial
20 Services Regulatory Relief Amendments Act of
21 2006 for the account of any depositor who was
22 a depositor on that date only if—

23 “(i) the depositor has signed a written
24 acknowledgment described in subparagraph
25 (A); or

1 “(ii) the institution makes an attempt,
2 as described in subparagraph (D) and sent
3 by mail no later than 45 days after the ef-
4 fective date of the Financial Services Reg-
5 ulatory Relief Amendments Act of 2006, to
6 obtain the acknowledgment.

7 “(D) ALTERNATIVE PROVISION OF NOTICE
8 TO CURRENT DEPOSITORS AND NEW DEPOSI-
9 TORS OBTAINED THROUGH A CONVERSION OR
10 MERGER.—

11 “(i) IN GENERAL.—Transmit to each
12 depositor who has not signed a written ac-
13 knowledgment described in subparagraph
14 (A)—

15 “(I) a conspicuous card con-
16 taining the information described in
17 clauses (i) and (ii) of subparagraph
18 (A), and a line for the signature of
19 the depositor; and

20 “(II) accompanying materials re-
21 questing the depositor to sign the
22 card, and return the signed card to
23 the institution.”.

24 (e) REPEAL OF PROVISION PROHIBITING NON-
25 DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-

1 ITS.—Section 43 of the Federal Deposit Insurance Act (12
2 U.S.C. 1831t) is amended—

3 (1) by striking subsection (e); and

4 (2) by redesignating subsections (f) and (g) as
5 subsections (e) and (f), respectively.

6 (f) REPEAL OF PROVISION CONCERNING NON-
7 DEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSI-
8 TORY INSTITUTIONS AND CLARIFICATION OF DEPOSITORY
9 INSTITUTIONS COVERED BY THE STATUTE.—Subsection
10 (e)(2) (as so redesignated by subsection (e) of this section)
11 of section 43 of the Federal Deposit Insurance Act (12
12 U.S.C. 1831t) is amended to read as follows:

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
14 pository institution’—

15 “(A) includes any entity described in sec-
16 tion 19(b)(1)(A)(iv) of the Federal Reserve Act;
17 and

18 “(B) does not include any national bank,
19 State member bank, or Federal branch.”.

20 (g) REPEAL OF FTC AUTHORITY TO ENFORCE INDE-
21 PENDENT AUDIT REQUIREMENT; CONCURRENT STATE
22 ENFORCEMENT.—Subsection (f) (as so redesignated by
23 subsection (e) of this section) of section 43 of the Federal
24 Deposit Insurance Act (12 U.S.C. 1831t) is amended to
25 read as follows:

1 “(f) ENFORCEMENT.—

2 “(1) LIMITED FTC ENFORCEMENT AUTHOR-
3 ITY.—Compliance with the requirements of sub-
4 sections (b) and (c), and any regulation prescribed
5 or order issued under any such subsection, shall be
6 enforced under the Federal Trade Commission Act
7 by the Federal Trade Commission.

8 “(2) BROAD STATE ENFORCEMENT AUTHOR-
9 ITY.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (C), an appropriate State supervisor of a
12 depository institution lacking Federal deposit
13 insurance may examine and enforce compliance
14 with the requirements of this section, and any
15 regulation prescribed under this section.

16 “(B) STATE POWERS.—For purposes of
17 bringing any action to enforce compliance with
18 this section, no provision of this section shall be
19 construed as preventing an appropriate State
20 supervisor of a depository institution lacking
21 Federal deposit insurance from exercising any
22 powers conferred on such official by the laws of
23 such State.

24 “(C) LIMITATION ON STATE ACTION
25 WHILE FEDERAL ACTION PENDING.—If the

1 Federal Trade Commission has instituted an
2 enforcement action for a violation of this sec-
3 tion, no appropriate State supervisor may, dur-
4 ing the pendency of such action, bring an action
5 under this section against any defendant named
6 in the complaint of the Commission for any vio-
7 lation of this section that is alleged in that com-
8 plaint.”.

9 **SEC. 3. CLARIFICATION OF SCOPE OF APPLICABLE RATE**
10 **PROVISION.**

11 Section 44(f) of the Federal Deposit Insurance Act
12 (12 U.S.C. 1831u(f)) is amended by adding at the end
13 the following new paragraphs:

14 “(3) OTHER LENDERS.—In the case of any
15 other lender doing business in the State described in
16 paragraph (1), the maximum interest rate or
17 amount of interest, discount points, finance charges,
18 or other similar charges that may be charged, taken,
19 received, or reserved from time to time in any loan,
20 discount, or credit sale made, or upon any note, bill
21 of exchange, financing transaction, or other evidence
22 of debt issued to or acquired by any other lender
23 shall be equal to not more than the greater of the
24 rates described in subparagraph (A) or (B) of para-
25 graph (1).

1 “(4) OTHER LENDER DEFINED.—For purposes
2 of paragraph (3), the term ‘other lender’ means any
3 person engaged in the business of selling or financ-
4 ing the sale of personal property (and any services
5 incidental to the sale of personal property) in such
6 State, except that, with regard to any person or en-
7 tity described in such paragraph, such term does not
8 include—

9 “(A) an insured depository institution; or

10 “(B) any person or entity engaged in the
11 business of providing a short-term cash advance
12 to any consumer in exchange for—

13 “(i) a consumer’s personal check or
14 share draft, in the amount of the advance
15 plus a fee, where presentment or negotia-
16 tion of such check or share draft is de-
17 ferred by agreement of the parties until a
18 designated future date; or

19 “(ii) a consumer authorization to
20 debit the consumer’s transaction account,
21 in the amount of the advance plus a fee,
22 where such account will be debited on or
23 after a designated future date.”.

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